

EXHIBIT F

THOMAS W. BEVAN, ESQ. - 04/05/2018

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

KIMBERLEE WILLIAMS,) CASE NO. 2:11-CV-01754
et al.,) (JLL)(JAD)
Plaintiffs,)
versus)
CONTINUED DEPOSITION OF
BASF CATALYSTS, LLC,)
et al.,) THOMAS W. BEVAN, ESQ.
Defendants.)

VOLUME II

Continued Deposition of THOMAS W. BEVAN, ESQ., a
Witness herein, called by the Defendants for
Cross-Examination pursuant to the Federal Rules of
Civil Procedure, taken before me, the undersigned,
Anika W. Patrick, a Registered Merit Reporter,
Certified Realtime Reporter and Notary Public in and
for the State of Ohio, at the offices of Thompson Hine,
LLP, 3900 Key Center, 127 Public Square, Cleveland,
Ohio, on Thursday, April 5, 2018, at 1:15 p.m.

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<p>1 APPEARANCES:</p> <p>2 On Behalf of the Plaintiffs:</p> <p>3 Harry M. Roth, Esq.</p> <p>4 Cohen, Placitella & Roth</p> <p>5 Two Commerce Square</p> <p>6 2001 Market Street, Suite 2900</p> <p>7 Philadelphia, Pennsylvania 19103</p> <p>8 215.567.3500</p> <p>9 hroth@cprlaw.com</p> <p>10 --- and ---</p> <p>11 Jared M. Placitella, Esq.</p> <p>12 Cohen, Placitella & Roth</p> <p>13 127 Maple Avenue</p> <p>14 Red Bank, New Jersey 07701</p> <p>15 732.747.9003</p> <p>16 jmplacitella@cprlaw.com</p> <p>17 On Behalf of the Defendant BASF Catalysts, LLC:</p> <p>18 Peter A. Farrell, Esq.</p> <p>19 Eugene F. Assaf, Esq.</p> <p>20 Brandon Stone, Esq.</p> <p>21 Kirkland & Ellis, LLP</p> <p>22 655 Fifteenth Street, Northwest, Suite 1200</p> <p>23 Washington, D.C. 20005</p> <p>24 202.879.5000</p> <p>25 Peter.farrell@kirkland.com</p> <p>Eugene.assaf@kirkland.com</p> <p>Brandon.stone@kirkland.com</p> <p>On Behalf of the Defendants Cahill Gordon & Reindel, LLP, Howard G. (Peter) Sloane, and Ira J. Dembrow:</p> <p>Kyle A. Dolinsky, Esq.</p> <p>Pepper Hamilton, LLP</p> <p>3000 Two Logan Square</p> <p>Eighteenth and Arch Streets</p> <p>Philadelphia, Pennsylvania 19103-4750</p> <p>215.981.4000</p> <p>dolinskyk@pepperlaw.com</p>	<p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION BY PAGE</p> <p>4 Mr. Farrell 63</p> <p>5</p> <p>6 PLAINTIFF'S EXHIBITS MARKED</p> <p>7 None</p> <p>8</p> <p>9 DEFENDANT'S EXHIBITS MARKED PAGE</p> <p>10 143, Transcript of Mr. Bevan 2/21/18 84</p> <p>11 144, Letter to Justice Rivera-Soto 105</p> <p>12 145, Declaration by Mr. Bevan 111</p> <p>13 -----</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 APPEARANCES (Continued):</p> <p>2 On Behalf of the Defendant Thomas D. Halket: (Via Telephone):</p> <p>3 Eric Tunis, Esq.</p> <p>4 Herold Law, PA</p> <p>5 25 Independence Boulevard</p> <p>6 Warren, New Jersey 07059</p> <p>7 908.647.1022</p> <p>8 Etunis@heroldlaw.com</p> <p>9 On Behalf of the Defendant Arthur Dornbusch (Via Telephone):</p> <p>10 John A. Boyle, Esq.</p> <p>11 Marino, Tortorella & Boyle, PC</p> <p>12 437 Southern Boulevard</p> <p>13 Chatham Township, New Jersey 07928</p> <p>14 973.824.9300</p> <p>15 Jboyle@khmarino.com</p> <p>16 On Behalf of the Bevan Law Firm:</p> <p>17 Kevin McDermott, Esq.</p> <p>18 McDermott & Hickey, LLC</p> <p>19 20525 Center Ridge Road, Suite 200</p> <p>20 Rocky River, Ohio 44116</p> <p>21 216.712.7452</p> <p>22 kevin@mcdermothickeylaw.com</p> <p>23 --- and ---</p> <p>24 (Via Telephone)</p> <p>25 Brendan Little, Esq.</p> <p>Levy Konigsberg, LLP</p> <p>800 Third Avenue, 11th Floor</p> <p>New York, New York 10022</p> <p>212.605.6200</p> <p>blittle@levylaw.com</p> <p>-----</p>	<p>1 WHEREUPON,</p> <p>2 THOMAS W. BEVAN, ESQ.,</p> <p>3 after being first duly sworn, as hereinafter</p> <p>4 certified, testified as follows:</p> <p>5 CROSS-EXAMINATION</p> <p>6 BY MR. FARRELL:</p> <p>7 Q. Good afternoon, Mr. Bevan.</p> <p>8 A. Good afternoon.</p> <p>9 Q. Welcome back.</p> <p>10 MR. ROTH: Sorry. Brendan, did you say</p> <p>11 you were on the phone? Brendan Little?</p> <p>12 MR. LITTLE: Yes, Brendan Little is on</p> <p>13 the phone.</p> <p>14 MR. FARRELL: Two minutes in and Mr. Roth</p> <p>15 is already interrupting me.</p> <p>16 MR. ROTH: Just getting started.</p> <p>17 Q. Is the Bevan Law Firm under a duty to preserve</p> <p>18 documents related to the Williams case?</p> <p>19 A. Whether I have a duty or not, we've preserved</p> <p>20 documents.</p> <p>21 Q. Does the Bevan Law Firm have a duty to preserve</p> <p>22 documents related to the Williams case?</p> <p>23 A. I don't know.</p> <p>24 Q. You can't answer that question?</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 64</p> <p>1 Q. Are you familiar with the concept of a duty to 2 preserve documents under the law? 3 A. Explain what concept you're talking about and I'll 4 let you know if I'm familiar with it. 5 Q. Well, you've been -- I think last time we were 6 together you told me you had been practicing law 7 for more than 20 years, correct? 8 A. Yes, 27 years. 9 Q. Twenty-seven years. In your 27 years of 10 practicing law, you've not encountered the concept 11 of a duty to preserve documents that are relevant 12 to litigation? 13 A. I guess defendants that I have sued or expect to 14 be sued, I have a duty to preserve documents and 15 I'm familiar with that concept, yes. 16 Q. So the defendants have a duty to preserve, but you 17 view the plaintiff's duty differently? 18 MR. ROTH: Objection. Form, foundation. 19 MR. McDERMOTT: Objection. Yeah. 20 A. I didn't say -- I didn't say that. 21 Q. Okay. So -- 22 A. I'm saying what I'm familiar with. You asked me 23 what I was familiar with. 24 Q. You're familiar with the concept of defendants 25 having a duty to preserve, yes?</p>	<p style="text-align: right;">Page 66</p> <p>1 which they've been sued or which they expect that 2 they're going to get sued. 3 Q. So a duty attaches when they've actually been 4 sued, correct? 5 MR. ROTH: Object to form and foundation. 6 A. I believe so. 7 Q. Do you believe the duty attaches before they've 8 been sued? 9 A. I believe if they expect to get sued, yes. 10 Q. If they expect to get sued. Okay. Now, if you're 11 a plaintiff in the case, do you believe that the 12 plaintiff has a duty to preserve documents when 13 they expect to file a case? 14 A. I guess it depends on what documents you're 15 talking about. If it's documents that are 16 relevant to the case, I would recommend that my 17 clients, you know, preserve any of those 18 documents, sure. 19 Q. So you would -- 20 A. I would ask them to give them to me and then I 21 would preserve them. 22 Q. You agree that the plaintiff who is going to file 23 a case has a duty to preserve documents that are 24 relevant to the case that is going to be filed, 25 correct?</p>
<p style="text-align: right;">Page 65</p> <p>1 A. Yes. 2 Q. Are you familiar with the concept of a plaintiff 3 having a duty to preserve documents that are 4 relevant to litigation? 5 A. It's never come up that I've had to deal with. 6 Q. In your 27 years of practicing law, you've never 7 encountered the issue of whether a plaintiff had 8 to preserve documents? 9 MR. ROTH: Objection. Form, foundation. 10 A. No. 11 Q. When your clients come to you in your cases, you 12 don't routinely tell them they need to preserve 13 documents that are relevant to the case they're 14 about to file? 15 A. I ask them to give me documents that are relevant 16 to the case, and if they have anything that's 17 relevant to the case, then they give them to me 18 and I hold them. 19 Q. Anything other than that? 20 A. I can't think of an instance other than that where 21 I've had -- come across that. 22 Q. What is the defendant's duty to preserve 23 documents? 24 A. I believe the defendant has a duty to preserve 25 documents that would be relevant to a case in</p>	<p style="text-align: right;">Page 67</p> <p>1 A. I certainly believe that that's the best practice. 2 Whether there's a legal duty to that or not, I 3 don't know, Peter. 4 Q. So you think it's a good idea, but you're just not 5 sure if it's required? 6 A. Correct. 7 MR. ROTH: Objection. Form, foundation. 8 Q. What types of documents would a defendant need to 9 preserve in litigation? 10 A. If they tested their talc to determine if it 11 contained asbestos and had test results of that, 12 those should have been preserved. 13 Q. Any other documents? 14 A. If they had sales records, those should be 15 preserved. If they had records regarding their 16 knowledge about -- historical knowledge about 17 asbestos hazards or about asbestos in their 18 product, those should be preserved. I'm sure 19 there's more. That's what comes to mind right 20 now. 21 Q. What time period is at issue in the Williams case? 22 A. When you say "the Williams case," can you be a 23 little bit more specific what you're referring to? 24 Q. The case that brings us here today, the class 25 action, Kimberlee Williams and others versus BASF</p>

<p style="text-align: right;">Page 68</p> <p>1 and others.</p> <p>2 A. The time period that I think would be at issue</p> <p>3 would be, you know -- you know, as far as my</p> <p>4 specific clients, I think some of them went back</p> <p>5 to the 1940s. So I would say 1940s to present</p> <p>6 would be at issue.</p> <p>7 Q. Well, this case is about litigation that was filed</p> <p>8 by plaintiffs, correct?</p> <p>9 A. That's my understanding, yes.</p> <p>10 Q. Some of the -- you represented some of those</p> <p>11 plaintiffs?</p> <p>12 A. Yes.</p> <p>13 Q. The cases don't go back to the 1940s, correct?</p> <p>14 A. The facts surrounding the case go back to the</p> <p>15 1940s.</p> <p>16 Q. Let me ask it this way: What is the earliest case</p> <p>17 that you filed on behalf of a plaintiff against</p> <p>18 Engelhard or an Engelhard entity related to EMTAL</p> <p>19 talc?</p> <p>20 A. I believe it goes back to probably around 1991.</p> <p>21 Q. Was the first case you filed?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And what was the last case that you filed</p> <p>24 against Engelhard or BASF related to EMTAL talc?</p> <p>25 A. I don't know. It might be in the past year. I'm</p>	<p style="text-align: right;">Page 70</p> <p>1 just know it was early in the process. That's the</p> <p>2 best I could tell you.</p> <p>3 Q. Then when you were here last time when we</p> <p>4 discussed the concept of document retention</p> <p>5 notices, do you remember that?</p> <p>6 A. Yes.</p> <p>7 Q. And you confirmed that your firm didn't issue a</p> <p>8 document hold notice in anticipation of the</p> <p>9 Williams case, right?</p> <p>10 A. I think I -- yeah, I think I indicated that I</p> <p>11 don't know what a document hold notice is, but</p> <p>12 that we hadn't destroyed any documents.</p> <p>13 Q. When Mr. Placitella contacted you in early 2011</p> <p>14 about the possibility of filing this case, did you</p> <p>15 contact any of your clients to tell them that they</p> <p>16 should preserve documents?</p> <p>17 A. To tell them they should preserve documents?</p> <p>18 Q. Correct.</p> <p>19 A. I did not.</p> <p>20 Q. Do you know whether Mr. Placitella contacted any</p> <p>21 of your clients to tell them to preserve</p> <p>22 documents?</p> <p>23 A. I do not know.</p> <p>24 Q. Did anyone -- has there been any point in time</p> <p>25 since 2011 when you've told clients of the Bevan</p>
<p style="text-align: right;">Page 69</p> <p>1 not sure. I'm sure -- we have the Ross case,</p> <p>2 which, you know, you're very familiar with. I</p> <p>3 don't -- I think we filed that in '17. Whether we</p> <p>4 filed anything in '18 or not, I'm not sure yet.</p> <p>5 Q. Okay. When did Chris Placitella first tell you</p> <p>6 that he was contemplating filing the case that</p> <p>7 became the Williams case?</p> <p>8 A. I think it was probably 2011.</p> <p>9 Q. Do you know when in 2011?</p> <p>10 A. I think it was early 2011, but I'm not sure.</p> <p>11 Q. Do you know when the Williams case was filed?</p> <p>12 A. I think it was filed in 2011, but I don't recall</p> <p>13 the exact date.</p> <p>14 Q. When you spoke to Mr. Placitella in early 2011</p> <p>15 about the possibility of filing the Williams case,</p> <p>16 did he tell you anything about preserving</p> <p>17 documents?</p> <p>18 A. You know, whether he said it in the first</p> <p>19 conversation or not, I'm not sure. I know it was</p> <p>20 early in the process, which -- when he said</p> <p>21 preserve documents, but I can't give you a date on</p> <p>22 that.</p> <p>23 Q. So it may not have been the first conversation</p> <p>24 with him?</p> <p>25 A. It may not have been. I -- I don't recall. I</p>	<p style="text-align: right;">Page 71</p> <p>1 firm to preserve documents that are relevant to</p> <p>2 the Williams case?</p> <p>3 A. I do not think I've had that conversation with any</p> <p>4 clients.</p> <p>5 Q. Has anyone from your firm told current or former</p> <p>6 clients of the Bevan firm to preserve documents</p> <p>7 that are relevant to the Williams case?</p> <p>8 A. I don't know.</p> <p>9 Q. Did Mr. Placitella call the other employees of the</p> <p>10 Bevan firm and tell them to preserve documents</p> <p>11 that are relevant to the Williams case?</p> <p>12 A. Not that I know of, but I don't really know.</p> <p>13 Q. And you didn't send a document hold notice,</p> <p>14 correct?</p> <p>15 MR. ROTH: Objection. Form, foundation.</p> <p>16 A. Again, I don't know what a document hold notice</p> <p>17 is, but I told my staff not to destroy anything.</p> <p>18 Q. In writing?</p> <p>19 A. No.</p> <p>20 Q. So you had conversations?</p> <p>21 A. Yeah.</p> <p>22 Q. When was that?</p> <p>23 A. Over the years. Multiple times. I don't recall</p> <p>24 exactly when.</p> <p>25 Q. Did you have a specific conversation with the</p>

<p style="text-align: right;">Page 72</p> <p>1 employees of the Bevan Law Firm to tell them they</p> <p>2 had a duty to preserve documents that are relevant</p> <p>3 to the Williams case?</p> <p>4 MR. ROTH: Objection. Form, foundation.</p> <p>5 A. I think what I would have told them is do not</p> <p>6 destroy any documents related to these cases and</p> <p>7 Eastern Magnesia Talc.</p> <p>8 Q. When was that?</p> <p>9 A. I don't recall.</p> <p>10 Q. Was it in 2011?</p> <p>11 MR. McDERMOTT: Objection. Asked and</p> <p>12 answered.</p> <p>13 A. I don't recall.</p> <p>14 Q. So as you sit here today, you can't say one way or</p> <p>15 the other whether that was before or after the</p> <p>16 Williams complaint was filed?</p> <p>17 MR. McDERMOTT: Objection.</p> <p>18 A. I don't know. Yeah, I don't know.</p> <p>19 Q. The conversation you referenced with your</p> <p>20 employees about preserving documents, was that one</p> <p>21 meeting with all employees?</p> <p>22 A. No.</p> <p>23 Q. You had multiple conversations?</p> <p>24 A. I'm sure I told Erin Clark, my paralegal. I'm</p> <p>25 sure I told Pat Walsh, my partner. They would</p>	<p style="text-align: right;">Page 74</p> <p>1 A. Her name is Marietta. And if there's something to</p> <p>2 be scanned, it's given to her and she scans it and</p> <p>3 gives it back to the person that gave it to her to</p> <p>4 scan to review. That person reviews it, makes</p> <p>5 sure it got scanned and gets rid of the hard copy</p> <p>6 and the electronic copy is preserved.</p> <p>7 Q. When was your conversation with Erin Clark about</p> <p>8 preservation of documents?</p> <p>9 A. I don't know.</p> <p>10 Q. Before or after the Williams complaint was filed?</p> <p>11 A. I don't know.</p> <p>12 Q. When was your conversation with Mr. Walsh about</p> <p>13 preservation of documents?</p> <p>14 A. I don't know.</p> <p>15 Q. Before or after the Williams complaint was filed?</p> <p>16 A. I don't know.</p> <p>17 Q. When you were here last time, we talked about the</p> <p>18 automatic deletion of e-mails. Do you remember</p> <p>19 that discussion?</p> <p>20 A. Yes.</p> <p>21 Q. Have you had an opportunity to look into the</p> <p>22 questions I asked you about the automatic deletion</p> <p>23 of e-mails at the Bevan Law Firm?</p> <p>24 A. I did.</p> <p>25 Q. Does the Bevan Law Firm e-mail system</p>
<p style="text-align: right;">Page 73</p> <p>1 have been the only ones that I would have had to</p> <p>2 say anything to.</p> <p>3 Q. Just the two of them?</p> <p>4 A. (Witness nodding head up and down.)</p> <p>5 Q. Did you tell any IT person or somebody responsible</p> <p>6 for your e-mail and electronic document systems to</p> <p>7 make sure that no documents were discarded from</p> <p>8 the Bevan firm?</p> <p>9 A. I don't know -- I guess I'm not understanding or</p> <p>10 maybe you're not understanding the way my office</p> <p>11 works, so that's not a question that makes any</p> <p>12 sense to me.</p> <p>13 Q. Do you personally administer the Bevan firm e-mail</p> <p>14 system?</p> <p>15 A. No.</p> <p>16 Q. Who does that?</p> <p>17 A. I don't think anybody personally administers it.</p> <p>18 It's set up and it runs.</p> <p>19 Q. Okay. What about your electronic document system?</p> <p>20 A. What about it?</p> <p>21 Q. Who administers your electronic document system?</p> <p>22 A. Again, that's a system that's set -- is set up.</p> <p>23 We have an employee that does most of the scanning</p> <p>24 for that system.</p> <p>25 Q. Who is that?</p>	<p style="text-align: right;">Page 75</p> <p>1 automatically delete e-mails after a certain</p> <p>2 period of time?</p> <p>3 A. No. Well, let me explain how that works. The</p> <p>4 e-mails will come in to an outside server. Those</p> <p>5 get forwarded to the recipient. When the</p> <p>6 recipient receives it, opens the e-mail, the</p> <p>7 outside server deletes it. The e-mail is now on</p> <p>8 the recipient's computer on their Outlook program,</p> <p>9 and it will stay on their computer until that</p> <p>10 individual deletes it. There's no auto delete.</p> <p>11 Q. Okay. So it sound like there are two steps.</p> <p>12 There's some central server and then individual</p> <p>13 computers by employees, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And when an e-mail hits the central server after</p> <p>16 it's forwarded to somebody, it's deleted on the</p> <p>17 central server?</p> <p>18 A. Yes.</p> <p>19 Q. When Mr. Placitella told you that he was</p> <p>20 contemplating filing the Williams case, did you</p> <p>21 take any steps to stop that central server from</p> <p>22 automatically deleting e-mails?</p> <p>23 A. No.</p> <p>24 MR. ROTH: Objection. Form, foundation.</p> <p>25 Q. Once the e-mails are forwarded from the central</p>

<p style="text-align: right;">Page 76</p> <p>1 server to the actual recipient, you said it's</p> <p>2 saved locally on their computer; is that correct?</p> <p>3 A. Correct.</p> <p>4 Q. After the Williams - withdrawn.</p> <p>5 When Mr. Placitella told you that he was</p> <p>6 contemplating filing the Williams case, did you</p> <p>7 take any steps to ensure that the e-mails on</p> <p>8 individual Bevan employee computers were not</p> <p>9 deleted?</p> <p>10 A. No.</p> <p>11 Q. So the individual employee e-mails - withdrawn.</p> <p>12 The system you're describing, the central</p> <p>13 server and then the forwarding to individual</p> <p>14 computers, how long has your e-mail system worked</p> <p>15 that way?</p> <p>16 A. It's, I would estimate, ten years.</p> <p>17 Q. Is that when you first adopted e-mail or did you</p> <p>18 have a different system before then?</p> <p>19 A. Well, I've always used AOL, as I told you in great</p> <p>20 detail the last time, so - and as far as people</p> <p>21 having Bevan Law e-mails, I would say that's been</p> <p>22 about ten years, I would estimate.</p> <p>23 Q. So before ten years ago, give or take, there was</p> <p>24 no formal Bevan Law Firm e-mail system?</p> <p>25 A. That is correct.</p>	<p style="text-align: right;">Page 78</p> <p>1 in the personal e-mail accounts of Bevan employees</p> <p>2 were preserved?</p> <p>3 A. The personal ones that we're talking about would</p> <p>4 be my account, and so I have e-mails from Chris</p> <p>5 Placitella. E-mails that could be relevant to</p> <p>6 this I don't delete, so I guess I ceased to delete</p> <p>7 any e-mails that could be relevant.</p> <p>8 Q. Let's try to take it in steps so we're on the same</p> <p>9 page. There have been multiple Bevan firm</p> <p>10 employees who worked on cases that were filed</p> <p>11 against Engelhard or BASF related to EMTAL talc,</p> <p>12 correct?</p> <p>13 A. I'm sorry. Repeat that again.</p> <p>14 Q. There have been multiple Bevan firm employees who</p> <p>15 worked on cases that your firm filed against</p> <p>16 Engelhard or BASF related to EMTAL talc, correct?</p> <p>17 A. Correct.</p> <p>18 Q. You didn't handle every single case by yourself?</p> <p>19 A. Correct.</p> <p>20 Q. And the Bevan employees, before ten years ago,</p> <p>21 would have used personal e-mail accounts as part</p> <p>22 of their job at the Bevan firm?</p> <p>23 MR. ROTH: Objection. Form, foundation.</p> <p>24 A. Some employees, correct.</p> <p>25 Q. And then even after ten years ago when you</p>
<p style="text-align: right;">Page 77</p> <p>1 Q. All of the litigation - withdrawn.</p> <p>2 Any e-mails sent or received from a Bevan</p> <p>3 Law Firm employee before ten years ago would have</p> <p>4 been on some personal e-mail system?</p> <p>5 A. Correct.</p> <p>6 Q. When Mr. Placitella called you in early 2011 to</p> <p>7 say he was contemplating filing the Williams case,</p> <p>8 what steps did the Bevan Law Firm take to ensure</p> <p>9 that the e-mails on the personal e-mail accounts</p> <p>10 of Bevan employees were preserved?</p> <p>11 A. What e-mails are you talking about?</p> <p>12 Q. Well, you've told me that every employee -</p> <p>13 A. I mean, are you talking - let me make my question</p> <p>14 a little bit clearer. Are you talking everybody's</p> <p>15 e-mails that they get or e-mails from</p> <p>16 Mr. Placitella?</p> <p>17 Q. Any e-mail they have that is relevant to the</p> <p>18 Williams case.</p> <p>19 A. Okay. All right. Now you can answer</p> <p>20 the - now - I'm sorry. Now you can tell me what</p> <p>21 the question was again.</p> <p>22 Q. Let's take it in two steps. When Mr. Placitella</p> <p>23 called you in early 2011 to say he was</p> <p>24 contemplating filing the Williams case, what steps</p> <p>25 did the Bevan Law Firm take to ensure that e-mails</p>	<p style="text-align: right;">Page 79</p> <p>1 instituted a formal Bevan e-mail system, employees</p> <p>2 of the Bevan firm continued to use personal e-mail</p> <p>3 accounts to conduct firm business like</p> <p>4 representing clients, correct?</p> <p>5 A. Some, yes.</p> <p>6 Q. So my question to you was, when Mr. Placitella</p> <p>7 called you in early 2011 to tell you he was</p> <p>8 contemplating filing the Williams case, what steps</p> <p>9 did the Bevan Law Firm take to ensure that e-mails</p> <p>10 in the personal e-mail accounts of Bevan firm</p> <p>11 employees were preserved?</p> <p>12 A. I guess the answer to that question would be the</p> <p>13 only one that would have been using a personal</p> <p>14 e-mail account on this would be me, and I saved or</p> <p>15 did not delete my e-mails. So that would be the</p> <p>16 steps that I would have taken.</p> <p>17 Q. The only steps to preserve e-mails in personal</p> <p>18 e-mail accounts that the Bevan Law Firm took were</p> <p>19 e-mails in your personal e-mail account?</p> <p>20 A. Correct.</p> <p>21 Q. Not Tom Walsh - Pat Walsh?</p> <p>22 A. I think he uses a firm e-mail account.</p> <p>23 Q. You told me a few minutes ago that all of the</p> <p>24 employees used personal e-mail accounts.</p> <p>25 MR. ROTH: Objection. Form, foundation.</p>

<p style="text-align: right;">Page 80</p> <p>1 A. No, I said some. I didn't say all.</p> <p>2 Q. Let's stick with Mr. Walsh. At your deposition on</p> <p>3 February 21st, you told me that Mr. Walsh uses an</p> <p>4 AOL e-mail account to conduct Bevan firm business.</p> <p>5 A. I think he uses both.</p> <p>6 Q. What steps did the Bevan Law Firm take in early</p> <p>7 2011 to preserve e-mails that Mr. Walsh has in his</p> <p>8 AOL e-mail account that are relevant to the</p> <p>9 Williams case?</p> <p>10 A. I think Mr. Walsh, if he has any - first of all,</p> <p>11 I don't think he would have anything going back</p> <p>12 that far, but if he did, he would have those.</p> <p>13 Q. What's your basis for that statement?</p> <p>14 A. He wasn't involved in it at all in the beginning.</p> <p>15 Q. Well, have you checked?</p> <p>16 A. Yeah.</p> <p>17 Q. You checked his AOL e-mail account?</p> <p>18 A. We checked his e-mails, yes.</p> <p>19 Q. Did you tell him to preserve all of his e-mails</p> <p>20 that are relevant to the Williams case?</p> <p>21 A. I think so, yes.</p> <p>22 Q. You think so or you did?</p> <p>23 A. I think I did.</p> <p>24 Q. When would that have been?</p> <p>25 A. I don't recall.</p>	<p style="text-align: right;">Page 82</p> <p>1 Q. So you told me documents related to Eastern</p> <p>2 Magnesia Talc, right?</p> <p>3 A. Yes.</p> <p>4 Q. There are many other documents related to past</p> <p>5 cases you filed against Engelhard that aren't</p> <p>6 related to Eastern Magnesia Talc, correct?</p> <p>7 A. You're going to have to repeat that question</p> <p>8 again, because you're not making sense. So please</p> <p>9 try to rephrase the question and maybe I'll</p> <p>10 understand it.</p> <p>11 Q. In your past cases where you have sued Engelhard</p> <p>12 or BASF -</p> <p>13 A. Okay.</p> <p>14 Q. - you also sued other defendants, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Sometimes as many as 90 or 100 defendants, right?</p> <p>17 A. Yes.</p> <p>18 Q. And in those cases there are a whole variety of</p> <p>19 documents, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Some of them relate to EMTAL talc?</p> <p>22 A. Probably, yeah.</p> <p>23 Q. And some of them do not?</p> <p>24 A. Yes.</p> <p>25 Q. You told me a few minutes ago you understood your</p>
<p style="text-align: right;">Page 81</p> <p>1 Q. Can you point to any writing that memorializes you</p> <p>2 telling Mr. Walsh to preserve his e-mails?</p> <p>3 A. His office is - adjoins my office, so I would not</p> <p>4 have put anything in writing to him.</p> <p>5 Q. So you think you had a conversation with him?</p> <p>6 A. Oh, I'm sure.</p> <p>7 Q. As you sit here today, are you sure you had a</p> <p>8 conversation with him?</p> <p>9 A. I'm sure I did, yeah.</p> <p>10 Q. When was that?</p> <p>11 A. I don't recall.</p> <p>12 Q. What would you have told him about his obligation</p> <p>13 to preserve e-mails?</p> <p>14 A. I said, "Preserve anything related to Eastern</p> <p>15 Magnesia Talc. We're not destroying anything."</p> <p>16 Q. Anything else?</p> <p>17 A. No.</p> <p>18 Q. What about, like, plaintiffs' settlements with</p> <p>19 other parties in asbestos cases?</p> <p>20 MR. ROTH: Objection to form, foundation.</p> <p>21 A. What about it? What are you asking me?</p> <p>22 Q. I'm trying to understand, Mr. Bevan, the scope of</p> <p>23 the documents that you thought your firm and its</p> <p>24 employees has a duty to preserve.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 83</p> <p>1 duty to preserve was limited to Eastern Magnesia</p> <p>2 Talc.</p> <p>3 MR. ROTH: Objection.</p> <p>4 Q. So my question for you was -</p> <p>5 MR. ROTH: Sorry.</p> <p>6 Q. - did you tell Mr. Walsh or anyone else at the</p> <p>7 Bevan firm that they had a duty to preserve</p> <p>8 documents other than documents related to Eastern</p> <p>9 Magnesia Talc?</p> <p>10 MR. ROTH: Objection. Form, foundation.</p> <p>11 A. I don't think I've told anybody to preserve</p> <p>12 documents that are unrelated to this case against</p> <p>13 Eastern Magnesia Talc, if that's what you're</p> <p>14 asking me.</p> <p>15 Q. What are the subject matter of the</p> <p>16 cases - withdrawn.</p> <p>17 What is the subject matter of the</p> <p>18 documents that you believe your firm has a duty to</p> <p>19 preserve because of the Williams case?</p> <p>20 A. You know, first of all, we're not destroying</p> <p>21 documents. Okay? Our clients' files get scanned</p> <p>22 and they stay there forever. Okay? So maybe it</p> <p>23 clears things up that we're not destroying</p> <p>24 anything. Okay? If that's what you're getting</p> <p>25 at. But, you know, if a document's related to</p>

<p style="text-align: right;">Page 84</p> <p>1 Eastern Magnesia Talc, we're not destroying them.</p> <p>2 Q. My question was a bit different, Mr. Bevan. You</p> <p>3 were telling me that you -- first you said you</p> <p>4 thought that you had a conversation with Mr. Walsh</p> <p>5 and then you said no. Now you're sure you had a</p> <p>6 conversation with Mr. Walsh about preserving</p> <p>7 documents. And then you said, well, I would have</p> <p>8 told him to preserve documents related to Eastern</p> <p>9 Magnesia Talc.</p> <p>10 A. Correct.</p> <p>11 Q. Is that -- are those the only documents you told</p> <p>12 him to preserve?</p> <p>13 MR. ROTH: Objection. Form, foundation.</p> <p>14 A. Yeah.</p> <p>15 (Whereupon, Defendant's Exhibit 143 was</p> <p>16 marked for identification.)</p> <p>17 Q. When you first spoke to Mr. Placitella in early</p> <p>18 2011, did you tell him that many of the Bevan Law</p> <p>19 Firm files had been converted to electronic form?</p> <p>20 A. I don't recall. I doubt it that that would have</p> <p>21 come up, but I don't recall.</p> <p>22 Q. Have you -- I'm sorry.</p> <p>23 A. But I don't recall.</p> <p>24 Q. Have you ever told the Cohen Placitella firm that</p> <p>25 the Bevan Law Firm scanned its historical files?</p>	<p style="text-align: right;">Page 86</p> <p>1 Q. You don't recall that?</p> <p>2 A. That he asked me to review my clients' documents?</p> <p>3 Q. That Mr. Placitella asked to have the opportunity</p> <p>4 to review your documents related to cases you</p> <p>5 filed against Engelhard or BASF.</p> <p>6 A. I don't recall if he asked that or not. I don't</p> <p>7 recall.</p> <p>8 Q. You talked a few minutes ago about your -- the</p> <p>9 original production of documents in this case. Do</p> <p>10 you remember that?</p> <p>11 A. Yes.</p> <p>12 Q. Mr. Placitella contacted you to say that you would</p> <p>13 need to produce certain documents in the Williams</p> <p>14 case?</p> <p>15 A. Yes.</p> <p>16 Q. That would have been sometime in 2016?</p> <p>17 A. Boy, I thought it was longer ago than that, but I</p> <p>18 don't know exactly when it was.</p> <p>19 Q. It could have been before 2016?</p> <p>20 A. I don't recall when it was, Peter. It was a long</p> <p>21 time ago.</p> <p>22 Q. When he talked to you about preserving</p> <p>23 document -- withdrawn.</p> <p>24 When Mr. Placitella spoke to you about</p> <p>25 the production of documents in this case on behalf</p>
<p style="text-align: right;">Page 85</p> <p>1 A. Oh, yes.</p> <p>2 Q. When was that?</p> <p>3 A. I'm sure we talked about it when we were doing</p> <p>4 this original production. I don't recall what</p> <p>5 year that was. Producing the Williams file and</p> <p>6 the Clark and the Graham, Darnell and Ware files,</p> <p>7 I'm sure we went over it with them at that time.</p> <p>8 Q. When was that?</p> <p>9 A. I don't -- I don't know. Whenever</p> <p>10 that -- whenever that original production took</p> <p>11 place.</p> <p>12 Q. Did you tell him that at any point in 2011?</p> <p>13 A. I don't recall if I did or not in 2011.</p> <p>14 Q. Well, when Mr. Placitella was contemplating filing</p> <p>15 the Williams case, did he ask you to see any of</p> <p>16 the documents related to the lawsuits you filed</p> <p>17 against Engelhard or BASF?</p> <p>18 A. Did he ask me to see any of the documents? Of my</p> <p>19 documents or his documents? Whose documents?</p> <p>20 Q. When Mr. Placitella contacted you in 2011 to</p> <p>21 discuss filing the Williams case, did he ask you</p> <p>22 for the opportunity to review any of the Bevan Law</p> <p>23 Firm's documents related to cases that your firm</p> <p>24 filed against Engelhard or BASF?</p> <p>25 A. I don't recall him asking me that.</p>	<p style="text-align: right;">Page 87</p> <p>1 of the five class representatives in the Williams</p> <p>2 case, did you tell him at that point that the</p> <p>3 Bevan Law Firm had scanned its historical files?</p> <p>4 A. I'm sure during that production that was made</p> <p>5 clear, yes. I don't recall the specific</p> <p>6 conversation, but I'm sure it was made clear</p> <p>7 during that production.</p> <p>8 Q. So when he first spoke to you about producing</p> <p>9 documents related to the five class</p> <p>10 representatives in the Williams case, who your</p> <p>11 firm represented, you would have told him that</p> <p>12 your firm had scanned its historical files?</p> <p>13 MR. ROTH: Objection. Form, foundation.</p> <p>14 A. You know, you said when he first talked to me</p> <p>15 about it. Again, it was during that production</p> <p>16 process. Whether it was in the first conversation</p> <p>17 we had or the second or the third or the fourth, I</p> <p>18 don't know. But at some point we made it clear</p> <p>19 that our files were electronic.</p> <p>20 Q. When was the first time that you provided Bevan</p> <p>21 Law Firm documents to the Cohen Placitella firm?</p> <p>22 A. I don't recall.</p> <p>23 Q. Did you provide any documents -- withdrawn.</p> <p>24 Did you provide any Bevan Law Firm</p> <p>25 documents to the Cohen Placitella firm before the</p>

<p style="text-align: right;">Page 88</p> <p>1 Williams complaint was filed?</p> <p>2 A. Yeah, I don't recall.</p> <p>3 Q. At any point before the original document</p> <p>4 production in this case that you referenced a few</p> <p>5 minutes ago, did your firm provide Bevan Law Firm</p> <p>6 documents to the Cohen Placitella firm?</p> <p>7 A. I'm sorry. Can you repeat that?</p> <p>8 Q. A few minutes ago you were discussing the original</p> <p>9 document production in the Williams case on behalf</p> <p>10 of the five class representatives whom your firm</p> <p>11 represented, correct?</p> <p>12 A. Yes.</p> <p>13 Q. At any point in time before that original document</p> <p>14 production did your law firm provide Bevan firm</p> <p>15 documents to the Cohen Placitella firm?</p> <p>16 A. I would say probably. I'm not sure, but probably.</p> <p>17 Q. What documents did you provide to them?</p> <p>18 A. I would assume we provided, you know, medical</p> <p>19 records or some information of some sort regarding</p> <p>20 the five plaintiffs.</p> <p>21 Q. Do you know whether all of those documents have</p> <p>22 been produced to the defendants in the Williams</p> <p>23 case?</p> <p>24 A. I don't know what they produced to you.</p> <p>25 Q. Do you have a log of the documents that you sent</p>	<p style="text-align: right;">Page 90</p> <p>1 and you weren't being truthful about that, Peter,</p> <p>2 because we did produce that letter. And I was</p> <p>3 told we produced it three times, and I looked at</p> <p>4 my settlement files and I found it in about 20</p> <p>5 seconds or so, that letter. And it frankly upset</p> <p>6 me that you would be that deceitful and dishonest.</p> <p>7 Q. Mr. Bevan, I wasn't -</p> <p>8 A. So I would change my testimony to say that there</p> <p>9 was a third option why you wouldn't have it, and</p> <p>10 the third option was that you were lying to me.</p> <p>11 Q. Oh, I see. I wasn't -</p> <p>12 A. That was the third option. I gave you two</p> <p>13 possibilities, but that would be the third one.</p> <p>14 Q. I'm not -</p> <p>15 A. There's a couple other things I would add, too.</p> <p>16 Q. What else?</p> <p>17 A. I think I told you my talc settlement files were</p> <p>18 between six and twelve inches, and I measured them</p> <p>19 and it was eight and a half inches.</p> <p>20 Q. Okay. Have all of those been produced?</p> <p>21 A. Yes, in that letter that you introduced as an</p> <p>22 exhibit in that deposition was in that file - in</p> <p>23 those files.</p> <p>24 Q. So the multi-hundred-page PDF that the Plaintiffs</p> <p>25 produced to us where the Martillotta letter was</p>
<p style="text-align: right;">Page 89</p> <p>1 to the Cohen Placitella firm?</p> <p>2 A. We have a scanned copy of some sort, yeah, but I</p> <p>3 don't have a log.</p> <p>4 Q. You have a record of the doc -- all the documents</p> <p>5 that you've provided to Cohen, Placitella & Roth?</p> <p>6 A. I believe I know what we've provided, yes.</p> <p>7 Q. Something you could still access today?</p> <p>8 A. I assume. I would check with my paralegal, Erin</p> <p>9 Clark. She's the one that, you know, put them on</p> <p>10 whatever she did, if she put them on a disk,</p> <p>11 however. But she would be the one I would consult</p> <p>12 with on that.</p> <p>13 Q. I've handed you what I've marked for</p> <p>14 identification as Defendant's Exhibit 143. That's</p> <p>15 the transcript of your deposition from two months</p> <p>16 ago in this case. Have you had a chance to review</p> <p>17 that transcript?</p> <p>18 A. I did.</p> <p>19 Q. Is there any testimony that you gave in that last</p> <p>20 deposition that you'd like to amend or correct in</p> <p>21 any way?</p> <p>22 A. I can think of one for sure.</p> <p>23 Q. What's the one?</p> <p>24 A. At the end of that deposition, you told me that we</p> <p>25 didn't produce a letter from Sam Martillotta to me</p>	<p style="text-align: right;">Page 91</p> <p>1 stuck in the middle, that's the file you're</p> <p>2 talking about?</p> <p>3 A. Well, I reject your suggestion that somehow it was</p> <p>4 stuck in the middle to be hidden. I assume it was</p> <p>5 produced in the same way that it was in my file.</p> <p>6 Q. I'm not suggesting anything was stuck anywhere,</p> <p>7 Mr. Bevan. I'm not trying to -</p> <p>8 A. By the way, it wasn't in the middle. It was about</p> <p>9 the 20th page in.</p> <p>10 MR. McDERMOTT: Can I interpose an</p> <p>11 objection?</p> <p>12 Q. I'm not trying to have an argument with you, sir.</p> <p>13 MR. McDERMOTT: Can I interpose an</p> <p>14 objection? Peter, if you want to testify,</p> <p>15 we'll swear you in. Let's just ask</p> <p>16 questions, please.</p> <p>17 MR. FARRELL: I've only asked questions.</p> <p>18 MR. McDERMOTT: I don't know what you're</p> <p>19 asking anymore. Keep going.</p> <p>20 Q. Is there any other testimony from your deposition</p> <p>21 last time you'd like to correct, sir?</p> <p>22 A. Well, you know, I told you about the e-mail</p> <p>23 server. That's not a correction in my testimony,</p> <p>24 I just got more detail and gave it to you already.</p> <p>25 Q. Okay. Anything else?</p>

<p style="text-align: right;">Page 92</p> <p>1 A. I think you asked me about a copy of a deposition 2 which I didn't have. I looked for it and didn't 3 have it. 4 Q. So other than the questions where I asked you to 5 check on something, those are the things you're 6 alluding to you didn't know the answer last time? 7 MR. ROTH: Objection. Form, foundation. 8 A. Yeah, you know, I - I had some notes, but yeah, I 9 think that was it. 10 Q. Is the Bevan Law Firm's document production in 11 response to BASF's subpoena complete? 12 A. Yes. 13 Q. Are -- is your personal document production in 14 response to BASF's subpoena complete? 15 A. Is my personal document production? I'm -- 16 Q. You understood that BASF's subpoena asked for 17 documents in the possession, custody or control of 18 the Bevan firm and you personally? 19 A. Oh, okay. Yeah, so the answer would be the same, 20 yes. There's no difference. 21 Q. Okay. Are you -- are you or the Bevan firm 22 withholding any documents not on a privilege log? 23 A. No. 24 Q. No document's being withheld on burden grounds or 25 any other objection?</p>	<p style="text-align: right;">Page 94</p> <p>1 Q. Did you speak to the Cohen Placitella firm? 2 A. I've spoken to them several times. 3 Q. What did you discuss with Cohen, Placitella & 4 Roth? 5 MR. McDERMOTT: Objection. 6 Attorney-client privilege. 7 MR. FARRELL: What's the basis for the 8 privilege objection as between Mr. Bevan and 9 Cohen Placitella? 10 MR. McDERMOTT: You can go ahead and 11 answer, Tom. 12 MR. FARRELL: Are you withdrawing the 13 objection? 14 MR. McDERMOTT: No, I'm not withdrawing 15 the objection. The objection stands. 16 Q. Do you have an attorney-client relationship with 17 Cohen, Placitella & Roth? 18 MR. McDERMOTT: He's an agent of that. 19 MR. FARRELL: I'm sorry? 20 MR. McDERMOTT: He's an agent of for his 21 clients. The clients are being represented 22 by Mr. Placitella's firm. 23 MR. FARRELL: Mr. Bevan is an agent of 24 the Cohen Placitella firm? 25 MR. McDERMOTT: No, for his clients who</p>
<p style="text-align: right;">Page 93</p> <p>1 A. Not that I recall. You know, we gathered up 2 whatever documents that we had and we forwarded 3 them to Mr. Little, and whatever objections they 4 made, you know, they made. But we provided all 5 those documents. 6 Q. Is Mr. Little's firm withholding any documents 7 that aren't on a privilege log? 8 MR. ROTH: Objection. Form, foundation. 9 A. I don't know. 10 Q. What did you do to prepare for your deposition 11 today? 12 A. I reviewed in detail the e-mail that you sent to 13 Mr. Little and he forwarded it to me and you gave 14 ten topics of inquiry. I reviewed those topics. 15 I had a, you know, a final meeting with Erin Clark 16 and Pat Walsh just to make sure I wasn't missing 17 anything. You know, similar to what I did in 18 preparation the last time. 19 Q. Did you meet with counsel? 20 A. I met with Mr. McDermott. I've talked with 21 Mr. Little. 22 Q. When was that? 23 A. I don't recall the last time I talked to 24 Mr. Little. I talked to Mr. McDermott right 25 before we came up here today.</p>	<p style="text-align: right;">Page 95</p> <p>1 are also clients of Mr. Placitella. 2 Q. What did you discuss with the Cohen Placitella 3 firm? 4 A. The logistics of this deposition. 5 Q. When was that? 6 A. As recently as last night. 7 Q. Who participated in the conversation? 8 A. Last night I talked to Harry Roth and Jared 9 Placitella. 10 MR. McDERMOTT: Continuing objection to 11 this line of questioning. 12 Q. What did Mr. Roth tell you? 13 A. That the Gayle Williams deposition may end sooner 14 and that maybe we'll be able to start earlier than 15 1:30. 16 Q. Anything else? 17 A. No. 18 Q. Did you discuss the substance of the Williams case 19 with the Cohen Placitella firm? 20 A. No. Well, I guess I ranted a little bit again on 21 what I perceived to be your untruthful statement 22 in the last deposition about the letter from 23 Mr. Martillotta to me. I know I brought that up 24 with them. 25 Q. I have a sense, Mr. Bevan, that you misunderstood</p>

<p style="text-align: right;">Page 96</p> <p>1 my question from last time. I don't need to</p> <p>2 debate it with you.</p> <p>3 A. I understood it very well, and I read it again and</p> <p>4 I understood it when I read it again, and you said</p> <p>5 it wasn't produced and you asked me why it wasn't</p> <p>6 produced.</p> <p>7 Q. Sir --</p> <p>8 MR. McDERMOTT: Objection to this line of</p> <p>9 questioning.</p> <p>10 MR. ROTH: Just move on.</p> <p>11 MR. McDERMOTT: Move to strike.</p> <p>12 Q. I'm not here to argue with you. I wasn't</p> <p>13 dishonest with you last time. Who else was in</p> <p>14 your conversation with Mr. Roth last night?</p> <p>15 MR. McDERMOTT: Continuing objection.</p> <p>16 A. Mr. Walsh was there.</p> <p>17 Q. What did Mr. Walsh say?</p> <p>18 A. I introduced him or he introduced himself to</p> <p>19 Mr. Roth.</p> <p>20 Q. So you, Mr. Roth, Mr. Walsh. Anybody else?</p> <p>21 A. Mr. Placitella. Jared Placitella.</p> <p>22 Q. Anybody else?</p> <p>23 A. Maybe Erin Clark. I'm not sure if she was still</p> <p>24 in the room or not.</p> <p>25 Q. Was this a phone conversation or in person?</p>	<p style="text-align: right;">Page 98</p> <p>1 conversations with somebody from the Placitella</p> <p>2 firm.</p> <p>3 Q. Who?</p> <p>4 A. I know I've talked to Jared Placitella and I know</p> <p>5 I've talked to Chris Placitella and I know I've</p> <p>6 talked to Harry Roth.</p> <p>7 Q. Have you communicated -- withdrawn.</p> <p>8 Have you personally communicated with</p> <p>9 attorneys from the Cohen Placitella firm in</p> <p>10 writing?</p> <p>11 A. By e-mail.</p> <p>12 Q. So you've --</p> <p>13 A. Yes.</p> <p>14 Q. -- exchanged -- are you finished?</p> <p>15 A. Yes.</p> <p>16 Q. You've exchanged e-mail correspondence with Cohen,</p> <p>17 Placitella & Roth?</p> <p>18 A. Yes.</p> <p>19 Q. Do those e-mails appear on the Bevan Law Firm's</p> <p>20 privilege log?</p> <p>21 A. I don't know.</p> <p>22 Q. Who would know that?</p> <p>23 A. I assume either people from the Placitella firm or</p> <p>24 people from Mr. Little's office.</p> <p>25 Q. How many e-mails have you exchanged with Cohen,</p>
<p style="text-align: right;">Page 97</p> <p>1 A. It was an in-person meeting.</p> <p>2 Q. Did you ever review any documents to prepare for</p> <p>3 today?</p> <p>4 A. The deposition, I reviewed.</p> <p>5 Q. Anything else?</p> <p>6 A. I don't think so.</p> <p>7 Q. Did you review any of the documents that your firm</p> <p>8 produced in the Williams case?</p> <p>9 A. I have not reviewed them a second time. I</p> <p>10 reviewed them originally, but I have not reviewed</p> <p>11 them again.</p> <p>12 Q. Have you had any communications with the Cohen</p> <p>13 Placitella firm since your last deposition other</p> <p>14 than the discussion last night?</p> <p>15 A. I am -- yes, I have.</p> <p>16 Q. When?</p> <p>17 A. At various times. I couldn't give you the days.</p> <p>18 Q. So you've had multiple communications with the</p> <p>19 Cohen Placitella firm since your February 21st</p> <p>20 deposition?</p> <p>21 MR. McDERMOTT: Objection.</p> <p>22 MR. ROTH: Objection.</p> <p>23 MR. McDERMOTT: Mischaracterization.</p> <p>24 Move to strike.</p> <p>25 A. I have had -- certainly have had multiple</p>	<p style="text-align: right;">Page 99</p> <p>1 Placitella & Roth?</p> <p>2 A. Many dozens, probably.</p> <p>3 Q. Going back to early 2011?</p> <p>4 A. I don't know when I first communicated with them</p> <p>5 by e-mail.</p> <p>6 Q. It's fair to say over the course of multiple</p> <p>7 years, though?</p> <p>8 A. Yes.</p> <p>9 Q. Has anyone else from the Bevan firm communicated</p> <p>10 with Cohen, Placitella & Roth via e-mail?</p> <p>11 A. I am -- Mr. Walsh would have.</p> <p>12 Q. Are Mr. Walsh's communications with the Cohen</p> <p>13 Placitella firm on any privilege log that have</p> <p>14 been produced to the defendants?</p> <p>15 A. I don't know. I haven't seen any privilege logs.</p> <p>16 Q. Have you collected Mr. Walsh's communications with</p> <p>17 the Cohen Placitella firm?</p> <p>18 A. I -- yes, I believe so.</p> <p>19 Q. What did you do with Mr. Walsh's e-mail</p> <p>20 communications with the Cohen Placitella firm?</p> <p>21 A. They would have been turned over to our counsel.</p> <p>22 Q. So Mr. Little has Mr. Walsh's e-mail</p> <p>23 communications with the Cohen Placitella firm?</p> <p>24 A. I believe so.</p> <p>25 Q. Who has your e-mail communications with the</p>

<p style="text-align: right;">Page 100</p> <p>1 Placitella firm?</p> <p>2 A. I believe counsel does.</p> <p>3 Q. Mr. Little?</p> <p>4 A. I believe so.</p> <p>5 Q. Anyone else -- withdrawn.</p> <p>6 Has anyone else from the Bevan Law Firm</p> <p>7 had e-mail communications with Cohen, Placitella &</p> <p>8 Roth?</p> <p>9 A. Probably Erin Clark.</p> <p>10 Q. Anyone other than Erin Clark?</p> <p>11 A. I don't think so.</p> <p>12 Q. Have Ms. Clark's e-mail communications with Cohen</p> <p>13 Placitella been provided to Mr. Little?</p> <p>14 A. I believe so.</p> <p>15 Q. Do you have any agreements -- withdrawn.</p> <p>16 Does your law firm have any agreements</p> <p>17 with the Cohen Placitella firm regarding the</p> <p>18 referral of clients to Cohen Placitella?</p> <p>19 MR. ROTH: Objection. Form, foundation,</p> <p>20 privilege.</p> <p>21 MR. McDERMOTT: Objection. I instruct</p> <p>22 you not to answer that, Tom.</p> <p>23 THE WITNESS: Okay.</p> <p>24 Q. I'm not asking you for the substance of the</p> <p>25 agreements, Mr. Bevan. I'm just asking whether</p>	<p style="text-align: right;">Page 102</p> <p>1 Q. Are any of those agreements reflected on a</p> <p>2 privilege log that has been prepared on behalf of</p> <p>3 the Bevan Law Firm?</p> <p>4 A. I don't know.</p> <p>5 Q. Does the Bevan Law Firm have any agreements with</p> <p>6 the Cohen Placitella firm regarding compensation</p> <p>7 that might be paid to your firm if the plaintiffs</p> <p>8 in the Williams case receive compensation?</p> <p>9 MR. ROTH: Objection. Form and</p> <p>10 foundation.</p> <p>11 MR. McDERMOTT: Same objection. You can</p> <p>12 go ahead and answer, Tom.</p> <p>13 A. Yes.</p> <p>14 Q. Are those agreements reflected on a privilege log</p> <p>15 that has been produced to the defendants in the</p> <p>16 Williams case?</p> <p>17 A. I don't know.</p> <p>18 Q. Are your law firm's agreements with the Cohen</p> <p>19 Placitella firm regarding compensation that might</p> <p>20 be paid to your firm in writing?</p> <p>21 MR. ROTH: Objection.</p> <p>22 MR. McDERMOTT: Same objection. You can</p> <p>23 go ahead and answer, Tom.</p> <p>24 A. Yes.</p> <p>25 Q. Does the Bevan Law Firm have agreements with the</p>
<p style="text-align: right;">Page 101</p> <p>1 they exist. Can you tell me "yes" or "no" whether</p> <p>2 your firm has agreements with the Cohen Placitella</p> <p>3 firm regarding the referral of clients?</p> <p>4 MR. ROTH: Same objection.</p> <p>5 MR. McDERMOTT: Same objection.</p> <p>6 THE WITNESS: Same instruction?</p> <p>7 MR. FARRELL: Are you instructing him not</p> <p>8 to answer that question?</p> <p>9 MR. McDERMOTT: Let's take a minute.</p> <p>10 THE WITNESS: Okay.</p> <p>11 MR. McDERMOTT: Let's walk out.</p> <p>12 MR. FARRELL: We're off the record.</p> <p>13 (Discussion off the record.)</p> <p>14 MR. FARRELL: Back on.</p> <p>15 MR. McDERMOTT: I'll withdraw my last</p> <p>16 objection.</p> <p>17 MR. FARRELL: Back on the record. So I'm</p> <p>18 sorry, Counsel, you were withdrawing the last</p> <p>19 objection?</p> <p>20 MR. McDERMOTT: Last objection.</p> <p>21 BY MR. FARRELL:</p> <p>22 Q. Okay. So my question to you, Mr. Bevan, was, does</p> <p>23 your law firm have agreements with the Cohen</p> <p>24 Placitella firm regarding the referral of clients?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 103</p> <p>1 Cohen Placitella firm regarding apportionment of</p> <p>2 attorneys' fees that might be paid in the Williams</p> <p>3 case?</p> <p>4 MR. ROTH: Objection. Move to strike.</p> <p>5 MR. McDERMOTT: Same objection.</p> <p>6 MR. ROTH: We're way beyond a --</p> <p>7 MR. McDERMOTT: 30(B)(5).</p> <p>8 MR. ROTH: -- records custodian</p> <p>9 deposition. This is the subject of a motion</p> <p>10 that's been disputed and I'm going to ask</p> <p>11 that he be instructed not to answer.</p> <p>12 MR. FARRELL: You're instructing him not</p> <p>13 to answer on the basis of scope?</p> <p>14 MR. ROTH: I asked his counsel to</p> <p>15 instruct him not to answer.</p> <p>16 MR. McDERMOTT: Repeat the question,</p> <p>17 please.</p> <p>18 (Whereupon, the Reporter read the record</p> <p>19 as requested.)</p> <p>20 MR. McDERMOTT: I'm going to object to</p> <p>21 that. It's privileged material. Don't</p> <p>22 answer it.</p> <p>23 THE WITNESS: Okay.</p> <p>24 Q. You're following the instruction not to answer?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 104</p> <p>1 Q. Whether the agreements exist?</p> <p>2 A. Yes.</p> <p>3 Q. Last time we were together, I asked you a number</p> <p>4 of questions about your personal AOL e-mail</p> <p>5 account. Do you remember that?</p> <p>6 A. Yes.</p> <p>7 Q. And I asked you whether your AOL e-mail account</p> <p>8 automatically deletes e-mails.</p> <p>9 A. Yes.</p> <p>10 Q. And I think your answer last time was that you</p> <p>11 didn't know, correct?</p> <p>12 A. I think my answer was I don't think it does.</p> <p>13 Q. You don't think -- so --</p> <p>14 A. And I have --</p> <p>15 Q. Either way, Mr. Bevan, my question for you today</p> <p>16 is, have you looked into that?</p> <p>17 A. My AOL does not have an auto delete, so I have</p> <p>18 e-mails going back to 2007.</p> <p>19 Q. Back to 2007, okay. Including</p> <p>20 e-mails -- withdrawn.</p> <p>21 Do you have e-mails going back to 2007</p> <p>22 related to cases that your firm has filed against</p> <p>23 Engelhard or BASF concerning EMTAL talc?</p> <p>24 MR. ROTH: Objection. Form, foundation.</p> <p>25 A. That, I can't answer.</p>	<p style="text-align: right;">Page 106</p> <p>1 A. I don't recall if I did or not.</p> <p>2 Q. If you keep flipping towards the back, you'll see</p> <p>3 in the last handful of pages there's a declaration</p> <p>4 that you signed. I assume you've seen the</p> <p>5 declaration before, but let me know if that's not</p> <p>6 the case.</p> <p>7 A. Yes.</p> <p>8 Q. So you've seen -- withdrawn.</p> <p>9 The declaration you signed is dated</p> <p>10 November 29th, 2017, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you've seen that before?</p> <p>13 A. Yes.</p> <p>14 Q. It was signed the same day that the brief was</p> <p>15 filed?</p> <p>16 A. I don't know.</p> <p>17 Q. The ECF number on the brief is November 29th,</p> <p>18 2017, correct?</p> <p>19 A. If that's the number that you're --</p> <p>20 Q. And it's the date on the document.</p> <p>21 A. On the top. Yes.</p> <p>22 Q. You hadn't seen the brief before today?</p> <p>23 A. No, I don't recall if I saw it or not.</p> <p>24 Q. Okay. Mr. Little didn't send it to you before it</p> <p>25 was filed with the court?</p>
<p style="text-align: right;">Page 105</p> <p>1 Q. Why not?</p> <p>2 A. I just looked back to see what the oldest e-mail I</p> <p>3 had was and I have one from 2007.</p> <p>4 Q. But you did a search of your AOL e-mail account</p> <p>5 for e-mails --</p> <p>6 A. Yes.</p> <p>7 Q. -- that are responsive to the court order in this</p> <p>8 case, correct?</p> <p>9 A. Yes.</p> <p>10 Q. So did you determine whether you had e-mails going</p> <p>11 back to 2007 that relate to cases your firm filed</p> <p>12 against Engelhard or BASF related to EMTAL talc?</p> <p>13 A. I don't -- I don't know when the earliest was,</p> <p>14 earliest e-mail was related to Eastern Magnesia</p> <p>15 Talc.</p> <p>16 (Whereupon, Defendant's Exhibit 144 was</p> <p>17 marked for identification.)</p> <p>18 Q. Mr. Bevan, I've handed your counsel what we've</p> <p>19 marked for identification as Defense Exhibit 144.</p> <p>20 While counsel is looking at it for a moment, I'll</p> <p>21 state for the record that this is a November 29th,</p> <p>22 2017 brief that your counsel filed on your behalf</p> <p>23 and on behalf of the Early Lucarelli firm in the</p> <p>24 Williams case bearing ECF number 380. Have you</p> <p>25 seen this document before?</p>	<p style="text-align: right;">Page 107</p> <p>1 MR. ROTH: Objection. Form, foundation.</p> <p>2 A. I don't know that.</p> <p>3 Q. If you turn to page 10 of the exhibit, page 10 of</p> <p>4 the brief, you see there's a heading number 6?</p> <p>5 A. Uh-huh. Yes.</p> <p>6 Q. The first sentence says, "The</p> <p>7 communications" -- withdrawn.</p> <p>8 Heading 6 says, "Order the immediate</p> <p>9 production of e-mails in the named Plaintiffs'</p> <p>10 client files from the Bevan and Early law firms."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And then under it, the first sentence is, "The</p> <p>14 communications contained in the case files of the</p> <p>15 Bevan and Early firms that were selected for</p> <p>16 production have been provided to Plaintiffs'</p> <p>17 counsel." Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Was that an accurate statement as of November</p> <p>20 29th, 2017?</p> <p>21 A. November of -- I believe so. We turned over the</p> <p>22 complete files. Yes.</p> <p>23 Q. What do you understand the phrase "case files" to</p> <p>24 mean?</p> <p>25 A. The client's file.</p>

<p style="text-align: right;">Page 108</p> <p>1 Q. Is that distinct from some other file that your 2 firm maintains?</p> <p>3 A. No.</p> <p>4 Q. The brief says, "The communications contained in 5 the case files." Is that limited to hard copy 6 documents or electronic documents as well?</p> <p>7 A. Everything is electronic, so it would be 8 electronic copies.</p> <p>9 Q. If you turn to the declaration you signed that's 10 attached to the brief, do you see paragraph 4?</p> <p>11 A. Yes.</p> <p>12 Q. The first sentence of paragraph 4 says, "I 13 estimate that my firm maintains more than 3,000 14 files for current and former clients that are 15 arguably responsive to the subpoena." Do you see 16 that?</p> <p>17 A. Yes.</p> <p>18 Q. What documents were you referring to in that 19 sentence?</p> <p>20 A. My client files.</p> <p>21 Q. What documents or information did you use to 22 arrive at the 3,000 files estimate?</p> <p>23 A. I think that was an estimate on the number of 24 clients that we had that would have been exposed 25 to Eastern Magnesia Talc.</p>	<p style="text-align: right;">Page 110</p> <p>1 Q. Fair enough. You recall there coming a time in 2 the Williams case where your firm was asked to 3 produce a sample of client files in response to 4 BASF's subpoena?</p> <p>5 A. Yes.</p> <p>6 Q. And whatever that number was, I'll tell you it was 7 30, but regardless of what the number was, my 8 question to you is, what documents or information 9 did you reference to identify the 30 client files 10 that were produced to BASF?</p> <p>11 MR. ROTH: Objection to form and 12 foundation.</p> <p>13 A. I'm not sure I understand your question, but let 14 me just say, you know, I was given a list and we 15 produced the files for the clients on that list.</p> <p>16 Q. So counsel gave you a list?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know what documents or information your 19 counsel used to identify the 30 client files that 20 were produced to BASF?</p> <p>21 A. I don't know how those clients were identified, 22 whether you did it, whether plaintiffs did it, 23 whether the court did it. I don't know.</p> <p>24 Q. Do you know what universe of client files the 30 25 sample files were selected from?</p>
<p style="text-align: right;">Page 109</p> <p>1 Q. Do you know how you arrived at the estimate of 2 3,000?</p> <p>3 A. I believe based on where they worked.</p> <p>4 Q. What do you mean by that?</p> <p>5 A. Well, for instance, if a client worked at Goodyear 6 or Firestone or Goodrich or General Tire, they 7 would have been exposed to Eastern Magnesia Talc.</p> <p>8 Q. How many of the 3,000 client files referenced in 9 this November 29th, 2017 declaration you signed 10 have been produced to BASF?</p> <p>11 A. Well -</p> <p>12 MR. ROTH: I'm sorry. Excuse me. Could 13 you give me that question back?</p> <p>14 (Whereupon, the Reporter read the record 15 as requested.)</p> <p>16 MR. ROTH: Okay.</p> <p>17 A. I believe the five representative client files 18 have been produced, and then I was given a list of 19 clients, of cases to produce files on and we 20 produced those. And I don't recall if that list 21 was 20 or 30. I don't recall the number. So 22 that's the best I can answer you on that.</p> <p>23 Q. Does 30 sound right to you?</p> <p>24 MR. ROTH: Objection. Form, foundation.</p> <p>25 A. I'm giving you a range. I said 20 to 30.</p>	<p style="text-align: right;">Page 111</p> <p>1 A. I think it may have been the universe of all my 2 clients, but I'm not sure.</p> <p>3 Q. If it came from the universe of all your clients, 4 how would they have determined whether the client 5 had a case against Engelhard?</p> <p>6 MR. ROTH: Objection. Form, foundation. 7 I'm not - why don't the three of us go 8 outside instead of -</p> <p>9 MR. FARRELL: Is it form or foundation?</p> <p>10 MR. ROTH: It's both.</p> <p>11 MR. FARRELL: Understood.</p> <p>12 Q. You can answer the question.</p> <p>13 A. Can you repeat that, please?</p> <p>14 MR. FARRELL: Can you read it back?</p> <p>15 (Whereupon, the Reporter read the record 16 as requested.)</p> <p>17 A. I know how I would determine it. How somebody 18 else would determine it, I - you know, it's up to 19 them.</p> <p>20 Q. As you sit here today, do you know that the 30 21 client files that were produced to us relate to 22 EMTAL talc?</p> <p>23 MR. ROTH: Objection. Form, foundation.</p> <p>24 A. I don't know.</p> <p>25 (Whereupon, Defendant's Exhibit 145 was</p>

<p style="text-align: right;">Page 112</p> <p>1 marked for identification.)</p> <p>2 MR. ROTH: Do you have some question</p> <p>3 about that process that we, with BASF's</p> <p>4 counsel, entered into and agreed about how</p> <p>5 they would be randomly picked?</p> <p>6 MR. FARRELL: I'm asking the witness</p> <p>7 if --</p> <p>8 MR. ROTH: I'm asking whether there was</p> <p>9 some problem with the process. He was not</p> <p>10 involved with it, as you know. The court</p> <p>11 directed us how to do it and we randomly came</p> <p>12 up with names. And what I'm asking is, is</p> <p>13 there some problem now you're raising about</p> <p>14 that process?</p> <p>15 MR. FARRELL: Harry, I have limited time</p> <p>16 here.</p> <p>17 MR. ROTH: I understand.</p> <p>18 MR. FARRELL: I'm not going to debate it</p> <p>19 with you. I'm not raising questions about</p> <p>20 the process, I'm asking about information</p> <p>21 used to identify the clients.</p> <p>22 MR. ROTH: Okay.</p> <p>23 Q. Mr. Bevan, I've handed you what we've marked as</p> <p>24 Defendant's Exhibit 145, which is a January 26,</p> <p>25 2018 declaration that you signed in connection</p>	<p style="text-align: right;">Page 114</p> <p>1 that?</p> <p>2 A. Yes.</p> <p>3 Q. Who is the attorney member of the Bevan firm who</p> <p>4 manages your firm's client database?</p> <p>5 A. That would be Pat Walsh.</p> <p>6 Q. So Mr. Walsh is the person who did the research or</p> <p>7 the legwork underlying the declaration?</p> <p>8 A. With -- in consult -- consultation with me, yes.</p> <p>9 Q. And then you pointed out in paragraph 6, right,</p> <p>10 "which results I have examined and believe." So</p> <p>11 you --</p> <p>12 A. Yes.</p> <p>13 Q. You checked his work, basically?</p> <p>14 MR. ROTH: Objection to form and</p> <p>15 foundation.</p> <p>16 Q. Further down in paragraph 6, this is at the very</p> <p>17 bottom, you see the reference to 2,653 Bevan Law</p> <p>18 Firm clients who would meet the proposed class</p> <p>19 definition?</p> <p>20 A. Yes.</p> <p>21 Q. What documents or data were used to arrive at the</p> <p>22 figure 2,653 Bevan Law Firm clients?</p> <p>23 A. I believe they were clients that had filed suit</p> <p>24 against Eastern Magnesia Talc and/or could have</p> <p>25 filed suit against Eastern Magnesia Talc and</p>
<p style="text-align: right;">Page 113</p> <p>1 with the Williams case. Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. Did you draft this?</p> <p>4 A. I don't know that I drafted it, I don't think. I</p> <p>5 may have --</p> <p>6 Q. Do you know who draft --</p> <p>7 A. -- reviewed it and made changes to it, but --</p> <p>8 Q. Do you know who did draft it?</p> <p>9 MR. ROTH: Objection. Form, foundation.</p> <p>10 A. I don't think -- I'm assuming Brendan Little, but</p> <p>11 I don't know.</p> <p>12 Q. You see in paragraph 3 there's a reference to the</p> <p>13 fact that you've been informed that the proposed</p> <p>14 class definition in the Williams class</p> <p>15 certification motion is, and then there's a</p> <p>16 paragraph with a class definition. Do you see</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. And then on the next page, you see paragraph 6?</p> <p>20 "I have asked an attorney member of the firm who</p> <p>21 manages my firm's client database to determine</p> <p>22 which of our clients would meet the above criteria</p> <p>23 in addition to the five class representatives</p> <p>24 whose decedents were represented by the Bevan Law</p> <p>25 Firm in their underlying claims." Do you see</p>	<p style="text-align: right;">Page 115</p> <p>1 either settled their claims with Eastern Magnesia</p> <p>2 Talc or had their claims dismissed against Eastern</p> <p>3 Magnesia Talc. And they were at sites where there</p> <p>4 was a high likelihood of Eastern Magnesia Talc</p> <p>5 exposure. I believe those were the criteria that</p> <p>6 we were looking at.</p> <p>7 Q. So the figure 2,653 includes clients who did file</p> <p>8 and clients who could have filed?</p> <p>9 MR. ROTH: Objection. Form and</p> <p>10 foundation.</p> <p>11 A. I believe so, yes.</p> <p>12 Q. Which documents or information at the Bevan firm</p> <p>13 was consulted to arrive at the 2,653 figure?</p> <p>14 A. I believe it was our database was the primary</p> <p>15 thing, which is why I had Pat Walsh working on it.</p> <p>16 Q. Anything other than the Bevan firm database?</p> <p>17 A. We may have reviewed complaints to determine if</p> <p>18 Eastern Magnesia Talc had been sued.</p> <p>19 Q. How many complaints do you recall reviewing?</p> <p>20 A. I don't recall.</p> <p>21 Q. Do you know whether all of the complaints you</p> <p>22 reviewed to arrive at the 2,653 figure have been</p> <p>23 produced to BASF?</p> <p>24 MR. ROTH: Objection. Form, foundation.</p> <p>25 A. I believe the only complaints we produced were the</p>

<p style="text-align: right;">Page 116</p> <p>1 complaints related to the files of -- that we 2 produced. 3 Q. Okay. So it's fair to say that the 2,653 Bevan 4 Law Firm clients figure is primarily based on the 5 Bevan firm database? 6 MR. ROTH: Objection. Form, foundation. 7 A. Yes. 8 Q. Does the Bevan firm database reflect -- withdrawn. 9 Does the Bevan Law Firm database identify 10 firm clients who could have filed complaints 11 against Engelhard or BASF? 12 A. To the extent that it would reflect where they 13 worked, yes. 14 Q. So the "could have filed" category is based on 15 just where the person worked? 16 A. Yes. 17 Q. Anything else? 18 A. No. 19 Q. So if BASF wanted to check the 2,653 figure 20 itself, it would need access to the Bevan firm 21 database? 22 A. I think what we gave you already, I think we 23 already gave it to you and it would be in there, 24 yes. 25 Q. Your understanding is that the Bevan firm produced</p>	<p style="text-align: right;">Page 118</p> <p>1 A. I guess you'd have to give me a little more detail 2 as far as how you're going to do it. But if you 3 want to take the data that I gave you and do your 4 own analysis, I have no objection to you doing 5 whatever it is that you want to do with that. 6 Subject, of course, to the agreed confidentiality 7 order. 8 Q. Does the Bevan Law Firm have any communications 9 with attorneys who were affiliated with the 10 National Tire Worker Litigation Project? 11 MR. McDERMOTT: Could you read that 12 question back again, please? I don't think I 13 quite -- sorry. 14 (Whereupon, the Reporter read the record 15 as requested.) 16 MR. ROTH: I'm not sure, are you -- I'd 17 like to place an objection on the record. I 18 didn't know whether you were? 19 MR. McDERMOTT: No. 20 MR. ROTH: Okay. 21 A. I guess maybe if you can tell me what you mean by 22 "affiliated"? 23 Q. When we were together in February, we discussed 24 the National Tire Worker Litigation Project, 25 correct?</p>
<p style="text-align: right;">Page 117</p> <p>1 the entirety of the Bevan database? 2 A. There was a few agreed-on redactions, but 3 otherwise, yes. 4 Q. For all 2,653 clients? 5 A. It was more than that, I think, that we gave you. 6 Q. The database that your firm maintains is 7 searchable, correct? 8 A. Yes. 9 Q. Is the version of the Bevan database entries that 10 were produced to BASF searchable? 11 MR. ROTH: Objection. Form, foundation. 12 A. I don't know how it was produced. I know it was 13 produced. Whether it was in a searchable form, I 14 don't know. 15 Q. It's fair to say that the Bevan Law Firm database 16 is in a more functional condition in your 17 possession than it is in BASF's possession? 18 A. Oh, I don't know if that's fair to say. I don't 19 know. 20 Q. You don't know? Do you have any objection to 21 being -- to BASF being able to run the same 22 searches that you or Mr. Walsh ran to arrive at 23 the 2,653 client figure? 24 MR. ROTH: Objection. 25 MR. McDERMOTT: Objection.</p>	<p style="text-align: right;">Page 119</p> <p>1 A. Yes. 2 Q. And you initially said you weren't sure what I 3 meant by that? 4 MR. ROTH: Objection. 5 Q. And then you said if you mean the project that was 6 started by Attorney Stemple in California. Do you 7 recall that? 8 A. I'm not sure if I agree with your description of 9 the conversation, but I know I asked you, do you 10 mean the project started by Gordon Stemple out of 11 California, and I am familiar with that. 12 Q. You are familiar with that? 13 A. Yes. 14 Q. Okay. So you are familiar with the organization 15 that Mr. Stemple started that was known as the 16 National Tire Worker Litigation Project? 17 A. Somewhat. 18 Q. Just somewhat? 19 A. Yeah, I'd say just somewhat. 20 Q. Do you or the Bevan Law Firm have any 21 communications with the attorneys who were part of 22 the National Tire Worker Litigation Project? 23 A. And if you're referring to the Stemple firm or the 24 Gerry firm, no. I mean, not -- you know, I had 25 one conversation with the Stemple firm probably as</p>

<p style="text-align: right;">Page 120</p> <p>1 a law clerk in 1989, and so nothing since then, 2 that I've had in conversation. 3 Q. You've only spoken to the Stemple firm one time? 4 A. Yes. 5 Q. And the Gerry firm one time? 6 A. I don't think I ever spoke to the Gerry firm. 7 Q. Okay. 8 A. But I may have, but I certainly don't recall ever 9 speaking to the Gerry firm. 10 Q. Was the Bevan Law Firm - withdrawn. 11 Did you file cases that were affiliated 12 with the National Tire Worker Litigation Project? 13 A. Me - 14 MR. ROTH: Objection to the - 15 A. Me personally, no. 16 MR. ROTH: Excuse me. I just want to put 17 an objection on the record. I'm not seeing 18 where this is a records custodian deposition. 19 MR. FARRELL: I'm trying to lay the 20 foundation to ask the next question, which 21 is, where are the documents? 22 MR. ROTH: Okay. 23 MR. FARRELL: So if he didn't file the 24 cases, there are no documents. 25 MR. ROTH: That makes it very easy. I'm</p>	<p style="text-align: right;">Page 122</p> <p>1 documents that I have that would be historical 2 records, letters between Stemple and/or Dale 3 Economus or my father. That would probably be all 4 that would be available. It's possible that we 5 have the complaints. I don't know for sure on 6 that. I can go to the courthouse and probably 7 find the old complaints. 8 Q. Were any of the complaints or correspondence that 9 you referenced produced by the Bevan firm to the 10 defendants in the Williams case? 11 MR. ROTH: Objection. Form, foundation. 12 A. No. 13 Q. Why not? 14 A. Because those cases didn't involve Eastern 15 Magnesia Talc. Eastern Magnesia Talc was not sued 16 in those cases, was not a defendant in those 17 cases. 18 Q. You said that Mr. Economus is of counsel to the 19 Bevan firm today? 20 A. Yes. 21 Q. Did you ask Mr. Economus whether he has documents 22 that are responsive to BASF's subpoena? 23 MR. ROTH: Objection. Form, foundation. 24 A. I did not. 25 Q. What does the acronym TWLP mean when it appears in</p>
<p style="text-align: right;">Page 121</p> <p>1 just - 2 Q. So, Mr. Bevan? 3 A. Me personally, I never filed a case that had 4 anything to do with the Stemple firm. 5 Q. Did the Bevan Law Firm file any cases that were 6 associated with the National Tire Worker 7 Litigation Project? 8 A. And prior to Bevan & Associates, there was an 9 office sharing arrangement called Bevan & 10 Economus, and the Bevan in Bevan & Economus was 11 Keith Bevan, who was my father, the Economus was 12 Dale Economus, who's of counsel to our firm now. 13 They filed 181 cases back in approximately 1988 14 that had originated from the Stemple firm through 15 the National Tire Worker Litigation Project. 16 Q. Where are those documents? 17 MR. ROTH: Objection. 18 A. What documents? 19 Q. The Bevan & Economus firm documents related to the 20 National Tire Worker Litigation Project. 21 A. I do not believe we have those client files 22 anymore. I think those were destroyed long ago. 23 Probably 20 years ago or, you know, 15, 18 years 24 ago. Long before we went electronic. If there's 25 any historical records, you know, there may be</p>	<p style="text-align: right;">Page 123</p> <p>1 the Bevan database under the category "Referring 2 Attorney"? 3 A. Yeah, the original asbestos cases, this dates back 4 to when I was a law clerk starting in '89, refers 5 to TWLP, which stands for Tire Worker Litigation 6 Project. When I first came out of law school back 7 in 1991, I signed up a handful of cases. I would 8 say eight or ten, maybe. And I referred to those 9 as TWLP2. They didn't have anything to do with 10 the National Tire Worker Litigation Project or 11 Gordon Stemple, but I just called it TWLP2 just to 12 kind of keep track of groups of cases. Then I had 13 a group of cases started in 1995 or '6 that I 14 referred to as TWLP3. So it may indicate there in 15 the origination column, that might be what you're 16 referring to. 17 And so we put those into our database 18 just to kind of keep track of when those cases 19 started, where they came from. There was a group 20 that we called TWLP4, which was a handful, and 21 then we just stopped using that name altogether. 22 Q. Were all of those files, TWLP2, 3, 4, were they 23 all searched in response to BASF's subpoena? 24 A. Well, if any of those - well, if any of those 25 cases were part of the whatever it was, the 20 or</p>

<p style="text-align: right;">Page 124</p> <p>1 30 files that we turned over, yes. If any of 2 those cases were part of the five, you know, they 3 would have been part of that five. You know, so 4 Williams would have been a TWLP2 case. Same with, 5 I believe same with Clark -- you know, so they 6 would have been -- you know, yeah. 7 MR. FARRELL: Let's take a short break. 8 (Recess was taken and Attorney Assaf left 9 the deposition.) 10 MR. FARRELL: Back on the record. 11 BY MR. FARRELL: 12 Q. Mr. Bevan, who enters the information that appears 13 in the Bevan client database that was produced in 14 part to BASF? 15 A. Oh, over the years various staff members. 16 I -- you know, who is currently doing it, I'm not 17 sure. I think maybe Gwen, but I don't know. 18 Q. Gwen who? 19 A. I think her last name is Schenk. 20 Q. Okay. 21 A. But I'm not positive. We -- you know, as people 22 are doing intakes, you know, and they enter it in, 23 I don't know who our individual person is that 24 does it now. 25 Q. What are the entries in the Bevan Law Firm</p>	<p style="text-align: right;">Page 126</p> <p>1 Bevan Law Firm clients? Is that fair? 2 A. Yeah, I would go to the client files to get a more 3 accurate statement. 4 Q. The actual client documents are a more reliable 5 source of settlement numbers than the database 6 itself? 7 MR. ROTH: Objection. Form, foundation. 8 A. You know, in some cases, yeah. Yes, in some 9 cases. 10 Q. Why do you say "in some cases"? 11 A. Well, if you're looking at an older case, like the 12 Williams case, we didn't even have that database 13 when that case was being handled. Even the Clark 14 case, I think the same goes for that. So there 15 might be some more recent stuff that's in there, 16 but a lot of the early stuff isn't in there. 17 Q. But it's fair to say that the database is at least 18 in some respects incomplete on amounts of 19 settlements paid? 20 MR. ROTH: Objection. 21 A. Yes, I -- again, I would go to the client files to 22 get -- to make sure that it was accurate. 23 Q. And so if you wanted the accurate information 24 about settlements paid to Bevan Law Firm clients, 25 you would need to check the client files to</p>
<p style="text-align: right;">Page 125</p> <p>1 database based on? 2 A. Well, the initial -- 3 MR. ROTH: Objection. Excuse me. 4 Objection. Form and foundation. 5 A. The initial entry would be based on the client 6 intake. So client name, address, you know, date 7 of birth, Social Security number, you know, where 8 he or she worked, the years that he or she worked. 9 Maybe their job classification. The death 10 certificate would, you know, give us an entry for 11 the cause of death or date of death. If we have a 12 medical report, that would give us information for 13 the date of diagnosis, what the diagnosis was. 14 And then if we -- if a settlement is entered in, 15 it would be based on the settlement information. 16 Q. So on the subject of the settlement information, 17 does the firm take any steps to confirm that the 18 settlement number that's in the Bevan database 19 matches the actual settlement in cases? 20 A. You know, that's something that evolved over the 21 years. For the older cases, a lot of that 22 information isn't in there. For the newer cases, 23 we're probably a little more accurate on it. 24 Q. So you couldn't use the Bevan database to 25 determine amounts paid in settlement to all of the</p>	<p style="text-align: right;">Page 127</p> <p>1 confirm? 2 A. In some cases, yes. 3 Q. Most cases? 4 A. I don't think, not most cases, no. 5 Q. Older cases yes? 6 A. Older cases, yes. 7 Q. Okay. Did the Cohen Placitella firm provide the 8 Bevan Law Firm with any search terms to run to 9 identify documents in response to BASF's subpoena? 10 A. I don't recall them ever doing that. I think 11 that's what I testified to the last time. 12 Q. I don't think I have anything else. Thank you, 13 Mr. Bevan. 14 MR. ROTH: I have no questions. 15 MR. McDERMOTT: Tom, you have the ability 16 to read this. 17 THE WITNESS: I read the last one. 18 MR. ROTH: Before we're done, Jared wants 19 to tell me some stuff. 20 (Discussion off the record.) 21 MR. ROTH: I have no questions. 22 MR. McDERMOTT: We'll read, please. 23 MR. ROTH: Anybody on the phone have any 24 questions? 25 MR. TUNIS: No.</p>

<p>1 MR. BOYLE: No.</p> <p>2 -----</p> <p>3 (Signature was not waived by the Witness.)</p> <p>4 -----</p> <p>5 (The deposition was concluded at 2:41 p.m.)</p> <p>6 -----</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	Page 128	<p>1 ERRATA SHEET</p> <p>2 Witness Name: Thomas W. Bevan, Esq.</p> <p>3 Date of Deposition: April 5, 2018</p> <p>4 Case: Kimberlee Williams, et al. Versus BASF Catalysts, LLC, et al.</p> <p>5</p> <p>6 Page Line Change and Reason for Change</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p> <p>AP</p>	Page 130
<p>1 WITNESS CERTIFICATE</p> <p>2</p> <p>3 I, THOMAS W. BEVAN, ESQ., do hereby certify that I</p> <p>4 have read my deposition taken on April 5, 2018, in the</p> <p>5 case of Kimberlee Williams, et al. Versus BASF</p> <p>6 Catalysts, LLC, et al., consisting of 73 pages, and</p> <p>7 that said deposition is a true and correct</p> <p>8 transcription of my testimony with changes as noted on</p> <p>9 the errata sheet.</p> <p>10</p> <p>11 _____</p> <p>12 Thomas W. Bevan, Esq.</p> <p>13 Dated this _____ day of _____, 2018.</p> <p>14</p> <p>15</p> <p>16</p> <p>17 Sworn to and subscribed before me this _____</p> <p>18 day of _____, 2018.</p> <p>19</p> <p>20</p> <p>21 _____</p> <p>22 Notary Public</p> <p>23 My commission expires _____.</p> <p>24</p> <p>25</p> <p>AP</p>	Page 129	<p>1 CERTIFICATE</p> <p>2 STATE OF OHIO,)</p> <p>3) SS:</p> <p>4 SUMMIT COUNTY.)</p> <p>5 I, Anika W. Patrick, a Registered Merit Reporter,</p> <p>6 Certified Realtime Reporter and Notary Public within</p> <p>7 and for the State of Ohio, duly commissioned and</p> <p>8 qualified, do hereby certify that the within-named</p> <p>9 Witness, THOMAS W. BEVAN, ESQ., was by me first duly</p> <p>10 sworn to testify the truth, the whole truth and nothing</p> <p>11 but the truth in the cause aforesaid; that the</p> <p>12 testimony so given by him was by me reduced to</p> <p>13 Stenotypy in the presence of said witness; afterwards</p> <p>14 prepared and produced by means of Computer-Aided</p> <p>15 Transcription, and that the foregoing is a true and</p> <p>16 correct transcription of the testimony so given by him</p> <p>17 as aforesaid.</p> <p>18 I do further certify that this deposition was</p> <p>19 taken at the time and place in the foregoing caption</p> <p>20 specified, and was completed without adjournment.</p> <p>21 I do further certify that I am not a relative,</p> <p>22 employee of or attorney for any party or counsel, or</p> <p>23 otherwise financially interested in this action.</p> <p>24 I do further certify that I am not, nor is the</p> <p>25 court reporting firm with which I am affiliated, under</p> <p>IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>and affixed my seal of office at Akron, Ohio, this 6th</p> <p>day of April, 2018.</p> <p>_____</p> <p>Anika W. Patrick, RMR, CRR & Notary Public</p> <p>My commission expires March 13, 2020</p>	Page 131

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